

CHAPTER 4

BUILDING, HOUSING AND BUSINESS REGULATIONS

Section 400. Garrett Park Historic Preservation Committee

(a) Statement of Policy

(1) History. Since its earliest days, the Town of Garrett Park has been marked by its stubborn resistance to attempted actions, private as well as public, internal and external alike, which threatened its quality and character as a 19th century village. During this long period it has gradually matured to its current state, absorbing decades of compatible growth, which served to strengthen and enhance its character. In the course of these years it has preserved and maintained the Town Plan in its original 19th century form with its structures of the 19th and 20th century situated harmoniously alongside each other and well back from the tree lined, curvilinear streets connecting with a single-lane country road (now State route #547) weaving its way through the Town. It has insulated its inner street system from the heavy traffic of the dense residential housing developments surrounding it in pursuance of the Town's desire to maintain its historic character against outside attempts to change the Town. The Town on its own initiative accomplished the inclusion of Garrett Park on the National Register of Historic Places in 1975.

(2) Purpose. Throughout its long history, the Town has managed its own internal affairs and plans to maintain this tradition. For these reasons, the Town has enacted this section, establishing a committee to develop and recommend policies, standards, criteria, and guidelines for the purpose of maintaining the historical heritage of Garrett Park congruent with the policies, standards, and criteria established by the County under state law.

(b) The Committee

(1) There is hereby created a Garrett Park Historic Preservation Committee, hereafter known as the Committee.

(2) The Committee shall consist of five citizen members and a member of the Town Council appointed by the Mayor.

(3) The Mayor shall appoint the citizen members, with the approval of the Town Council, from among Town residents who have lived in Garrett Park for at least one year and who are qualified by special interest, knowledge or training in such fields as history, architecture, landscape architecture, urban design or historic preservation. All members shall be appointed for a term of three years, except that the Councilmember's term on the Committee shall expire at the end of his or her Council term. Those vacancies on the

Committee that are created by the resignation or other discontinuation of a member prior to the expiration of the member's term shall be filled by the Mayor with the approval of the Town Council for the unexpired term of the replaced member. A member may be removed for failure to attend meetings regularly or for misconduct.

(4) The members of the Committee shall serve without compensation, but they may be reimbursed for actual expenses incurred in the performance of their duties, provided such expenses are approved by the Town Council.

(5) The Town shall provide in its annual budget such funds as may be required for the operation of the Committee.

(6) The Chair and Vice-Chair shall be elected by the members of the Committee. The Committee may adopt such procedural rules as may be necessary or appropriate for the conduct of its business.

(c) Powers of the Committee

(1) The Committee in conformity with the policy set forth in this section and with the policies expressed in Section 24A of the Montgomery County Code, shall develop and recommend regulation, standards, criteria and guidelines designed to preserve and enhance historic Garrett Park.

(2) The Committee shall maintain and update an inventory of historic, landscape, and environmental resources in the Town.

(3) The Committee shall serve as a clearinghouse for information on historic preservation and related issues for the residents of the Town and shall collect and disseminate educational material related to its mission.

(4) The Committee may make recommendations to the Council in such subject areas as: width or size of yards, courts, or other open spaces, percentage of lot to be left unoccupied, and height standards.

Section 401. Building and Demolition Permits

(a) Purpose The Town of Garrett Park was placed on the National Register of Historic Places in 1975 because it has been able to maintain its 19th Century village plan while accommodating 90 years of growth. Section 401 is enacted so that this plan can continue to be maintained.

(b) Building Permits

(1) No building shall be erected, nor shall any exterior be altered, expanded or increased, or any addition made thereto or any work started thereon, or any excavation made in connection therewith, prior to the issuance of a building permit by both the appropriate Montgomery County Office(s) and the Clerk-Treasurer, except in the case of such minor repairs, minor

alterations or accessory building as do not require permits from Montgomery County.

(2) An application for a building permit shall be made on a form provided by the Council and shall be accompanied by such plans, drawings, photographs and other documents as may be required by the Council.

(3) Town permits shall be valid for the same period of time as are Montgomery County permits and no changes in site location or setback shall be made until such changes have been approved by the Town as a revision to the permit.

(c) Demolition Permits

(1) No house or accessory building in excess of 400 square feet may be demolished or razed prior to the issuance of a demolition permit by the Town and appropriate Montgomery County office(s). A house situated on more than one lot may only be demolished or razed only if the site is replatted to a single lot.

(2) An application for a demolition permit shall be made on a form provided by the Council and shall be accompanied by such plans, drawings, photographs and other documents as may be required by the Council. A demolition permit must be approved by the Council, with the advice of the Garrett Park Historic Preservation Committee, and cannot be issued prior to a public hearing on the application. Town demolition permits shall be valid for the same period of time as are Montgomery County permits.

(3) Partial demolition of a house incidental to remodeling does not require a demolition permit; a building permit is required for remodeling as specified in Section 401(b).

Section 402. Building Setback Lines, Lot Coverage and Floor Area Ratio

(a) Purpose

(1) To protect the public health, safety and welfare of the Citizens of Garrett Park and, more specifically, to: preserve and protect the lands and improvements within the Town by ensuring that all proposed new construction and alterations to buildings in the Town be compatible with the Town's existing scale, natural topography, vegetation, trees, physical setting, and density of development.

(1.1) Preserve the unique park-like setting of the 19th century garden suburb, maintain the prevailing pattern of houses and open spaces, and retain the maximum amount of green area surrounding new or expanded houses.

(1.2) Encourage a compatible relationship between new or expanded houses and neighboring structures in scale, siting, and orientation on the lot.

(1.3) Maintain housing diversity and choice by retaining existing housing stock yet allowing a reasonable amount of expansion in living space.

(2) To establish stricter or additional building height, bulk, massing, design, location, setback and lot coverage requirements than those of the current Montgomery County Zoning Ordinance for the construction, repair, erection, or remodeling of houses, buildings, or other structures on land zoned for single-family residential use.

(3) To provide a procedure for a variance from the strict application of the building requirements contained in this section.

(b) Application and Interpretation

As provided in Article 28 of the Maryland Code, the Montgomery County Zoning Ordinance applies to all property in Garrett Park. In addition, all buildings on land zoned for single-family residential use shall comply with the requirements of this Chapter 4 in effect at the time of the issuance of a Town building permit. If a term used in this Chapter is not defined herein, but is defined in the Montgomery County Zoning Ordinance, it shall have the meaning ascribed to it in the Montgomery County Zoning Ordinance.

(c) Setback, Lot Coverage and Floor Area Ratio Requirements

All buildings on land zoned for single-family residential use hereafter erected or altered shall adhere to the setback, lot coverage and floor area ratio requirements set forth below:

(1) Setback from street

No main building or new construction shall be nearer to any street right-of-way than thirty (30) feet. Additionally,

(1.1) If any adjacent lot is occupied by a main building with a front yard setback greater than this requirement, no main building hereafter erected and no addition to an existing main building shall project beyond the line previously established by the existing main

buildings on the adjacent lots; or

(1.2) If only one adjacent lot is occupied by a main building with a front yard setback greater than this

requirement, no main building hereafter erected and no addition to an existing main building shall project beyond a line established by the average of the front yard setback of the adjacent main building and thirty (30) feet.

(1.3) Notwithstanding the above, open porches added to structures existing as of February 15, 2000 may extend up to eight (8) feet beyond the required front yard setback line and may be roofed.

(1.4) For the purposes of Section 402 (c)(1)(1.1) and 402 (c)(1)(1.2) of the Garrett Park Town Code, if the main building on an adjacent lot is set back by more than 90 (ninety) feet, it shall be considered to be set back by 90 (ninety) feet.

(2) Setback from adjacent properties

No main building on land zoned for single-family residential use shall be nearer to any property line (other than a property line adjacent to a street right of way, as provided in Section 402(c)(1)) than the following:

(2.1) Minimum side yard setback:

(a) One side: 10 feet; and

(b) Sum of both sides:

(i) 25 feet for lots with over 60 feet in width at the front main building line; or

(ii) 20 feet for lots with 60 feet or less in width at the front main building line.

(2.2) Minimum rear yard setback:

(a) 25 feet for lots over 90 feet in depth at the location at which the main building is closest to the property line;

(b) 15 feet for lots 90 feet or less in depth at the location at which the main building is closest to the property line.

(3) Maximum lot coverage

The maximum percentage of the lot area that may be covered by a main building is eighteen (18) percent and the maximum percentage of the lot area that may be covered by main and accessory buildings cumulatively is twenty (20) percent.

(4) Floor Area Ratio

The maximum floor area ratio for main plus accessory buildings is .375.

(d) The following exemptions for projections shall apply to the requirements of Sections 402(c)(1) and 402(c)(2).

(1) (A) Open roofless steps, stoops, exterior stairways and terraces may extend into any minimum front yard or rear yard setback area by not more than 9 feet.

(B) For lots over 90 feet in depth, open roofless porches and decks may extend into a minimum rear yard setback area by not more than 9 feet, provided that any such feature that is roofed may not extend more than 3 feet into any minimum rear yard setback area. For lots 90 feet or less in depth, open roofless porches and decks may not extend into a minimum rear yard setback area.

(2) Open roofed or roofless steps, stoops, exterior stairways, terraces, porches and decks may extend into any minimum side yard setback area not more than 3 feet.

(3) Open roofed steps, stoops, exterior stairways and terraces may not extend more than 3 feet into any minimum front yard or rear yard setback area.

(4) Any bay window, entrance or balcony may project not more than 3 feet into a minimum front yard or rear yard setback area, provided that such feature does not exceed 10 feet in width.

(5) Cornices and eaves may project not more than 2 ½ feet over any minimum setback area. This exemption does not apply to cornices and eaves on steps, stoops, exterior stairways, terraces, porches, decks, bay windows, entrances or balconies.

(6) Sills, leaders, belt courses, and similar ornamental features may project not more than 6 inches over any minimum setback area.

(7) Open, roofless fire escapes, if required by the Montgomery County building code, may project not more than 5 feet over any minimum setback area.

(8) Chimneys may project not more than 24 inches into any minimum setback area.

(9) Chimneys used as walls may not project into any minimum setback area.

(10) Air conditioners and heat pumps may project not more than 5 feet into any minimum front yard or rear yard setback area. Any air conditioners or heat pumps existing within any minimum side yard setback area prior to July 3, 2012 may be continued and replaced.

(e) The following building elements shall be included in the calculation of lot coverage and floor area ratio in accordance with the following table:

Element	Lot Coverage	Floor Area Ratio
Open and roofless steps, stoops, exterior stairways, and terraces	No	No
Open and roofed steps, stoops, exterior stairways, and terraces	Yes	No
Enclosed steps, stoops, exterior stairways, and terraces	Yes	Yes
Roofless and open porches and decks	No	No
Roofed open porches	Yes	No
Enclosed porches	Yes	Yes
Bay windows	Yes	Yes
Open roofless entrance or balcony	Yes	No
Open roofed entrance or balcony	Yes	No
Enclosed entrance or balcony	Yes	Yes
Cornices, eaves, sills, leaders, belt courses, and similar ornamental features	No	No
Chimneys	Yes	Yes
Open roofless fire escapes	No	No
Open roofed fire escapes	Yes	No
Enclosed fire escapes	Yes	Yes
Air conditioners and heat pumps	No	No

Section 403. Variances

(a) Purpose

It is the purpose of this Section to provide a procedure for a variance from the strict application of these building requirements in specific cases where the unusual dimensions, shape, topography, or other exceptional characteristics of a particular lot are such that the strict and literal enforcement of the Chapter would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property.

(b) Procedure

(1) Application. An application for a variance shall be made to the Council on a form provided by the Council, shall be accompanied by such plans, drawings, photographs and other documents as may be required by the Council and shall set forth the Section of this Chapter under which the building permit was denied, the basis for the claim of need for relief and the nature and extent of the relief sought.

(2) Public Hearing. On each application for a variance a public hearing shall be held and a written opinion made public.

(c) Conditions upon which relief may be predicated

(1) No variance shall be granted unless the Council finds, on the basis of the evidence of record that good cause has been shown on the following grounds for relief from the strict application of the building requirements.

(1.1) Because of the unusual dimensions, shape, topography or other exceptional characteristics of the lot, the lot cannot accommodate the building sought to be erected if the requirements of Section 402 are strictly applied to the construction and the strict and literal application of Section 402 to the lot would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property.

(1.1.1) The following conditions do not constitute hardship or difficulty as those terms are used herein:

1. Alleged violations of this Chapter by others;
2. The existence of nearby non-conforming uses;
3. The granting of a waiver or variance on other lots;
4. Any condition that results from the actions of the applicant; or
5. The existence of a building constructed in violation of this Chapter.

(1.1.2) If the alteration of the dwelling is required mainly as an aid to a disabled resident and no other reasonable feasible alternative is available, then the practical difficulties standard of Section 403(c)(1.1) above shall be deemed to have been met.

(1.1.3) If the building(s) sought to be erected cover more than eighteen (18) per cent of the net lot area and if the net lot area is equal to or less than 8,600 square feet then the

exceptional characteristics standard of Section 403(c)(1.1) above shall be deemed to have been met.

(1.2) When considering an application for a variance, the Council must consider these criteria:

(1.2.1) The net lot area to be covered by buildings, including accessory buildings, should not exceed twenty (20) percent of the net lot area, unless the lot area is equal to or less than 8,600 square feet. If the lot area is equal to or less than 8,600 square feet, then the net lot area to be covered by buildings, including accessory buildings, shall not exceed 1,720 square feet or 25 per cent of the net lot area, whichever is less. Net lot area is defined as the total horizontal area included within the rear, side and front lot lines; and

(1.2.2) whether approval of the application for relief will be in harmony with the general purposes of this Chapter and will not be contrary to the public interest.

(2) Specific Conditions. In granting a variance, the Council shall permit the least departure from the requirements of this Chapter that will give relief to the applicant. The Council may attach such conditions to the grant of variance, as it considers necessary to accomplish the intent of Sections 402 and 403 of this Code.

(d) Exemptions

(1) Existing Buildings. An existing building which was lawful when established, but which no longer conforms to the requirements of this Chapter because of the amendment of this Chapter, may continue as built and may be replaced or repaired, but may not be expanded, except to the extent that such expansion meets the requirements of this Chapter.

(2) Existing Building Permits

Construction for which a building permit was granted both by Montgomery County and by the Town before July 3, 2012 may proceed under the regulations and conditions that prevailed when the permits were granted provided, however, that any such construction that does not comply with the provisions of this Chapter shall have begun within twenty-four (24) months of July 3, 2012.

Section 404. Construction

All construction covered by this Code must conform to standards established in the Montgomery County Building, Electrical and Zoning Codes and to Washington

Suburban Sanitary Commission and National Plumbing Codes. Any house connections will require a permit from the Washington Suburban Sanitary Commission and the Clerk-Treasurer must receive notification of such permits.

Section 405. Enforcement

(a) The Mayor shall appoint an inspector to monitor building and demolition covered by this Code, whose duty it shall be to submit recommendations to the Mayor and Council. The inspector shall inspect all new construction and demolition activities, check compliance with the building permit and report all violations of these regulations to the Mayor and Council. The inspector shall be empowered to stop all building construction or demolition until any violations thereof are corrected. The inspector shall have no discretionary power to modify or waive any of these regulations.

(b) Any violation of any of the provisions of this Chapter shall be a municipal infraction subject to the imposition of a fine of \$100.

(c) Each day that the violation continues shall be a separate offense.

(d) In any case where the Mayor has reason to believe that there may have been an un-remedied violation of this Code, the Mayor may issue a Notice of Violation, setting forth the information required of Section 903 of this Code.

(e) If, following notice and a hearing on the record, the Council shall find that one or more violations of any provision of this Code have taken place, it shall prescribe an appropriate remedy for such violation(s) including but not limited to the issuance of a citation for a municipal infraction; the imposition of fines; a direction to cease and desist from continuing to act in violation of the provisions of this Code; the institution of injunctive or other appropriate action or proceedings for the enforcement of the orders of the Council or for the correction of such violations as have taken place or for the collection of such fines as the Council may have imposed. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or other appropriate forms of remedy or relief.